

July 5, 2022

IN THE U.S. DISTRICT COURT OF SDTX, HOUSTON
Dr. Probir K. Bondyopadhyay vs. U.S.A. (U.S. Secretary of Air Force)

1. SUMMARY OF THE CASE

A U.S. Constitutional Claim arising out of conscious unauthorized use of a Patented U.S. Invention of this Petitioner-Plaintiff (a U.S. Citizen, sole inventor and sole owner), to manufacture a very large system, that remains halted for design correction. has been established by this Honorable U.S. District Court [Exhibit-1]. This U.S. constitutional financial claim was quantified and affirmed as a FACT by the U.S. Court of Federal Claims (USCFC) on June 23, 2020 [Exhibit-2]. This quantified financial claim as a FACT was reaffirmed by the U.S. Court of Appeals for the Federal Circuit. ***en banc***, on June 01, 2021 and by the U.S. Solicitor General on 09/15/2021.

In her Opinion of June 23, 2020, Honorable Judge Marian Blank Horn of the USCFC failed to differentiate between TIME and PROPERTY as it related to this quantified Constitutional Claim. **In other words, the Honorable Judge could not differentiate between Article 1, Section 8 Clause 8 of the U.S. Constitution (that deals with limited TIME) and Fifth Amendment to the U.S. Constitution that deals with PROPERTY.** This is a very serious embarrassing issue that requires immediate attention and remedy.

Dr. Probir K. Bondyopadhyay
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2. THE PETITIONER-PLAINTIFF


The Petitioner-Plaintiff, a U.S. Citizen is simultaneously the sole Inventor and sole Owner of the patented U.S. invention entitled: Geodesic Sphere Phased Array Antenna System (U.S. Patent 6,292,134) This is a very large system architecture patent that was used unauthorized by the U.S. Air Force to design and manufacture for modernization of the Air Force Satellite Control Network (AFSCN) for a period of 11 years and 23 days.

This very large system manufacturing (U.S. 6,292,134) has a gestation period of over 22 years according to the U.S. Air Force's own estimates.

This Petitioner-Plaintiff is a U.S. Constitutional Creature under Article 1 Section 8 Clause 8 of the U.S. Constitution reaffirmed by the mandate of U.S. Court of Appeals for the Federal Circuit established on 09/06/2018.

3. THE DEFENDANT

Because the applicable law is Title 28 USC Section 1498(a) that produced the quantified FACTS in the USCFC, the Defendant is the United States of America. But the actual Defendant in this Petition is the U.S. Secretary of the Air Force. The enforcement of the U.S. Constitutional Order must take place through the U.S. Attorney, SDTX, Houston, against the SBIR program (origin and continuation of the violation) of the U.S. Air

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Force.

4. THE LASER-SHARP ISSUE

4.1 The laser-sharp issue in this case is the Plaintiff's petition for a U.S. District Court Order for enforcement of a U.S. Constitutional Order to settle a quantified Constitutional Claim arising out of unauthorized use of a patented invention for a period of 11 years and 23 days by the U.S. Air Force SBIR program for modernization of Air Force Satellite Control Network (AFSCN).

4.2 The Project is currently halted for design correction to be made with the U.S. Invention (U.S. Patent 11,296,408 B1, issued 04/05/2022).

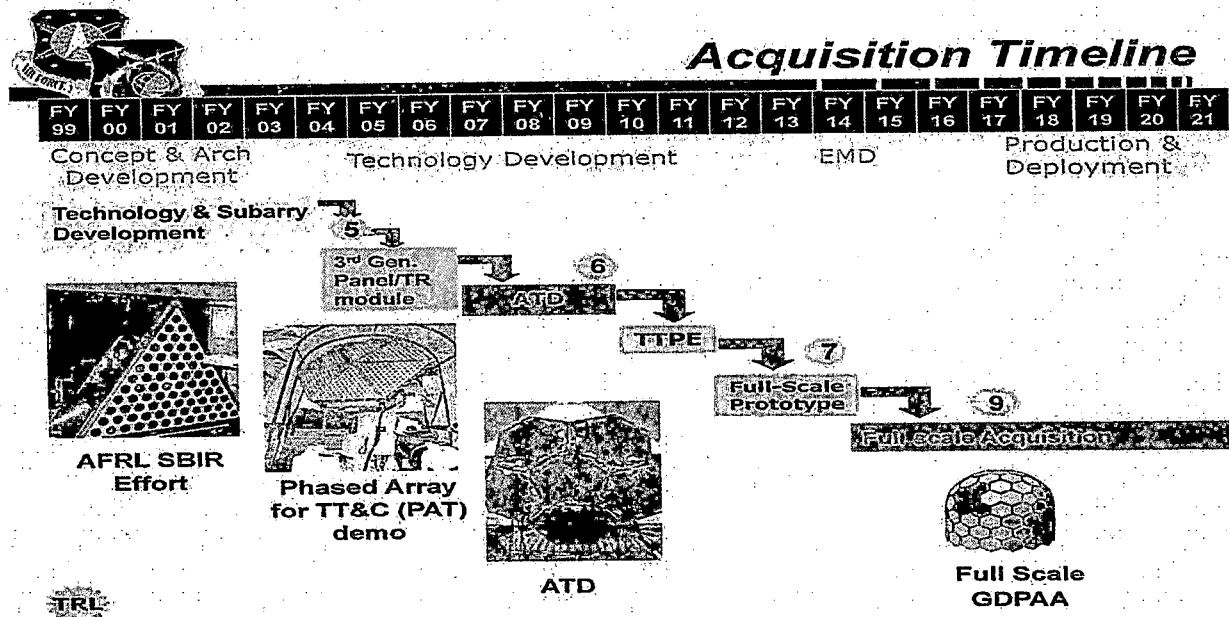
4.3 *The patented invention (U.S. Patent 6,292,134) is for a very large system architecture of an electronic scanning Phased Array Antenna System **that has a gestation period of over 22 years.***

4.4 Referring to the time line of the development and manufacturing activities shown in the picture below (Page 6), *the laser-sharp constitutional issue involves 'UNAUTHORIZED PREGNANCY' for the continuous time period of 11 years and 23 days and **NOT** the 'STATUS OF THE FETUS' 'after 12 years and 23 days.*


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THE TIMELINE OF DEVELOPMENT AND MANUFACTURING EFFORT FOR MODERNIZATION OF AIR FORCE SATELLITE CONTROL NETWORK (AFSCN) [WITH GEODESIC SPHERE PHASED ARRAY ANTENNA SYSTEM (GSPAAS)]



Vitally important design correction is necessary for implementation of the **simultaneously simpler, cheaper and faster** unique version of the design (U.S. Patent 11,296,408 B1, issued 04/05/2022).

Dr. Probir K. Bondyopadhyay

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IN THE U.S. DISTRICT COURT OF SDTX, HOUSTON
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5. THE LASER-SHARP PROBLEM

The Honorable Judge Marian Blank Horn of the U.S. Court of Federal Claims in her OPINION of June 23, 2020 has failed to differentiate between LIMITED TIME (Article 1 Section 8 Clause 8 of the U.S. Constitution) and PROPERTY (Fifth Amendment to the U.S. Constitution).

This very serious FAILURE is obstructing constitutional justice and constitutional promotion of Progress of Science envisaged by Thomas Jefferson in the Beginning of the United States of America.

The incontrovertible Direct Written Evidence is in top of Page 7 of her 22-page Opinion. It is reproduced below.

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Plaintiff's complaint in the above-captioned case, once again, appears to allege a Fifth Amendment taking claim, stating that the "*Defendant has taken the livelihood of this Independent Inventor* for a prolonged period of eleven years and 23 days and continues to remain indifferent towards this *Constitutional Order* for a long time." (capitalization and emphasis in original). Plaintiff's filings with the court in the above-captioned case, however, do not indicate the exact nature of an alleged event that occurred eleven years and 23 days prior to plaintiff's filing of the above-captioned case.

s/Marian Blank Horn
MARIAN BLANK HORN
Judge

Status of the Fetus is NOT an issue in this Petition for Constitutional justice. It is the *unauthorized 'pregnancy'*.

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IN THE U.S. DISTRICT COURT OF SDTX, HOUSTON
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6. THE REMEDY SOUGHT

This Plaintiff-Petitioner respectfully submits that this Honorable U.S. District Court (SDTX, Houston) where this U.S. Constitution Claim has originated on October 23, 2013 immediately apply the Constitutional Law on the quantified FACT approved by the U.S. Court of Federal Claims on June 23, 2020 and reaffirmed by the U.S. Court of Appeals for the Federal Circuit *en banc* on June 1, 2021 and again reaffirmed by the U.S. Solicitor General on September 15, 2021 (Case 21-0249) and direct the Honorable U.S. Attorney of the Southern District of Texas to enforce the Constitutional Order and fulfill the U.S. Constitutional obligation of promoting Progress of Science. **This Jeffersonian Claim must have to be assessed against the offending SBIR Program of the U.S. Air Force, administered by the U.S. Air Force Research Laboratory (AFRL).**

7. WRIT OF MANDAMUS?

Failure to differentiate between TIME and PROPERTY, failure to differentiate between Article 1 Section 8 Clause 8 of the U.S. Constitution and the Fifth Amendment to the U.S. Constitution, is a **VERY** serious matter for an Independent U.S. Inventor. Therefore, this Petition qualifies to


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be treated as a Writ of Mandamus for Constitutional justice.

This Petitioner-Plaintiff will respond very promptly, to any question or any clarification that this Honorable Court may need.

The Petitioner-Plaintiff can also be contacted by E-Mail.

Respectfully Submitted,

 July 5, 2022

(Dr. Probir Kumar Bondyopadhyay)

U.S. Citizen, Original Inventor and Sole Owner

U.S. Patent 6,292,134

(Original Article 1 Section 8 Clause 8

Creature of the U.S. Constitution)

14418 Oak Chase Drive

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281-486-7735 (Home)

Service to:

(1). U.S. Attorney, SDTX, Houston

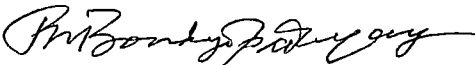
1000 Louisiana Street, Suite 2300

Houston, Texas 77002

(2). U.S. Secretary of the Air Force

1670 Air Force Pentagon

Washington, D.C. 20330-1670

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EXHIBIT-1

The origin of the Petitioner-Plaintiff's Constitutional Claim in
the U.S. District Court Order of October 23, 2013

[Case 4:13-cv-01914, Docket Document 43, October 23, 2013]

[Relevant excerpts from Page 7 of Honorable Senior Judge David Hittner's Order
establishing the Jeffersonian Claim for unauthorized use of the patented invention]



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Quantification of the Jeffersonian Claim

[in Page 15 below]

EXHIBIT-2

The relevant portion of the OPINION of Honorable Judge Marian Blank Horn of the USCFC is extracted here.

['UNAUTHORIZED PREGNANCY' IS THE ISSUE FOR THE JEFFERSONIAN CLAIM IN THIS TEMPORARILY HALTED WORK]

[The 'STATUS OF THE FETUS' is **not** the issue in this Petition].

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IN THE U.S. DISTRICT COURT OF SDTX, HOUSTON
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In the United States Court of Federal Claims

No. 19-1831C

Filed: June 23, 2020

* * * * *

PROBIR K. BONDYOPADHYAY,	*
	*
Plaintiff,	*
	*
v.	*
	*
UNITED STATES,	*
	*
Defendant.	*
	*
	*
	*

* * * * *

Pro Se; Patent Infringement; Res
Judicata; Fifth Amendment Taking;
Fraud; Statute of Limitations.

Probir K. Bondyopadhyay, pro se, Houston, TX.


Joshua I. Miller, Trial Attorney, Commercial Litigation Branch, Civil Division,
United States Department of Justice, Washington, D.C., for defendant. With him were
Gary L. Hausken, Director, Commercial Litigation Branch, and Joseph H. Hunt,
Assistant Attorney General, Civil Division.

OPINION

HORN, J.

FINDINGS OF FACT

Plaintiff's complaint, filed on November 27, 2019, states that "[t]he Plaintiff, a U.S. Citizen is the sole inventor and owner of the live U.S. Patent 6,292,134 entitled *Geodesic Sphere Phased Array Antenna System*." (capitalization and emphasis in original) (internal references omitted). Attached to plaintiff's complaint is only the first page of the '134

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Plaintiff's complaint, although at times difficult to follow, seems to allege that the defendant infringed on his ownership of the '134 patent. Plaintiff's complaint states that "[t]he violation of the Constitutional Order has occurred at the Small Business Innovation Research (SBIR) Program of the U.S. Air Force administered by the Air Force Research Laboratory (AFRL) under the central control of the Office of the Secretary of Defense (OSD)." (capitalization and emphasis in original) (internal references omitted). Plaintiff further alleges in his opposition to defendant's motion to dismiss that there have been "two distinctly separate violations: (i) acquisition of Innovation fraud under Title 15 USC section 638(a) and 638 (b). [sic] and (ii) violation of *Exclusive Right for Limited Times* of an Inventor, Owner, U.S. Citizen, (This Plaintiff)." (capitalization and emphasis in original). With regard to plaintiff's alleged second violation, plaintiff states that the "*Exclusive Rights for Limited Times* is a U.S. Constitutional Order that can NOT be dismissed by any Article 3 U.S. Courts or Article 1 U.S. Courts, created under Section 8, Clause 9." (capitalization and emphasis in original).

Plaintiff's complaint further states:

The U.S. Air Force has acquired the innovation (that soon became the U.S. Patent), in 1999 in clear violation of Title 15 USC Section 638a and 638b

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to modernize the Air Force Satellite Control Network (AFSCN). The proof, at the origin of this U.S. Air Force effort, is staring at the Honorable Federal Court in Exhibit-3.

(capitalization and emphasis in original). Exhibit 3 of plaintiff's complaint is labeled: "**TIME LINE OF DEVELOPMENT WORKS ON THE MODERNIZATION OF AIR FORCE SATELLITE CONTROL NETWORK (AFSCN) BY THE AIR FORCE RESEARCH LABORATORY (AFRL)**" (capitalization and emphasis in original), and contains an uncited image depicting the United States Air Force's projected acquisition timeline for the construction of a Full Scale Geodesic Dome Phased Array Antenna, starting in 1999 and completed by 2021.

Plaintiff's multiple filings with the court in the above-captioned case do not specify a particular device of the AFRL which he alleges infringed on the '134 patent. The above-


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The *constitutional* financial claim has already been recorded with the U.S. Court of Appeals for the Federal Circuit [Exhibit-6]. It is \$100 per hour for 1500 hours per year for 11 years and 23 days, plus administrative and office cost of \$1000 per month for 60 months. The total amount of **Constitutional Financial Claim** is \$1,719,000.

(alteration, capitalization and emphasis in original). Attached as Exhibit 6 of plaintiff's complaint in the above-captioned case is a portion of plaintiff's briefing before the United States Court of Appeals for the Federal Circuit in Bondyopadhyay IV.²

² An excerpt from the appeal file in the United States Court of Appeals for the Federal Circuit from Bondyopadhyay IV, which is attached at Exhibit 6 of plaintiff's complaint in the above-captioned case, states:

9.0 THE PLAINTIFF INDEPENDENT INVENTOR'S FINANCIAL CLAIM

9.1 PART-A based on *exclusive rights for limited times* (period September 18, 2001 through October 11, 2012). The Plaintiff Appellant independent Inventor was *deprived of full time highly specialized Phased Array Antenna Engineering work on his own invention*.

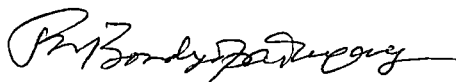
9.2 This PART-A amount is \$100 per hour for 1500 hours per year for eleven (11) years and 23 days.

9.3 PART-B Plaintiff Appellant's Court cost (US Court of Federal Claims, period February 2014 through April 2018). This includes clerical, postal, copying and office costs at their minimum.

9.4 This PART-B amount is \$1000 per month for 50 months.

10. This Claim originated from a procurement fraud in the Small Business Innovation Research (SBIR) program of the U.S. Air Force managed by U.S. Air Force Research Laboratory (AFRL). Therefore, this Constitutional Claim should be levied against the budget of the U.S. AFRL.

(capitalization and emphasis in original).


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EXHIBIT-3

Incontrovertible Direct written evidence that the OPINION of Honorable Judge Marian Blank Horn of the USCFC (a derivative creature of Article 1 Section 8 Clause 9 of the U.S. Constitution) could **NOT** differentiate between Article 1 Section 8 Clause 8 (LIMITED TIME) of the U.S. Constitution and the Fifth Amendment (PROPERTY) to the U.S. Constitution.

**[Top paragraph of page 7 of the OPINION versus
bottom paragraph of Page 21 of the OPINION]**



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THE INCONTROVERTIBLE DIRECT EVIDENCE

Top paragraph of Page 7 of the OPINION

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Plaintiff's complaint in the above-captioned case, once again, appears to allege a Fifth Amendment taking claim, stating that the "*Defendant has taken the livelihood of this Independent Inventor* for a prolonged period of eleven years and 23 days and continues to remain indifferent towards this *Constitutional Order* for a long time." (capitalization and emphasis in original). Plaintiff's filings with the court in the above-captioned case, however, do not indicate the exact nature of an alleged event that occurred eleven years and 23 days prior to plaintiff's filing of the above-captioned case.

versus

Bottom paragraph of Page 21 of the OPINION

(Title 28 USC Section 1498 action deals with government use of the claimed invention without authorization which deals with limited time and NOT on Fifth Amendment Property)

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⁶ The court notes that, in an unpublished decision in 2017, the United States Court of Appeals for the Federal Circuit stated that "the jurisdictional clock for a § 1498 action begins to run when the government first uses the claimed invention without authorization and that specific use is not considered continuous in nature for jurisdictional purposes." Sacchetti v. United States, 711 F. App'x 979 (Fed. Cir. 2017) (citing Starobin v. United States, 662 F.2d at 750; and also citing Regent Jack Mfg. Co. v. United States, 337 F.2d 649, 651, 167 Ct. Cl. 815, 817 (1964); Hyde v. United States, 336 F. App'x 996, 998 (Fed. Cir. 2009); Bissell v. United States, 41 F. App'x 414, 416 (Fed. Cir. 2002)).

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[END OF THIS SUBMISSION]

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